

Office of the City Attorney

July 9, 2014

Ms. Ann Sarver
Facilities Environmental Specialist
USPS Facilities Department – HQ Field Office
Facilities Implementation Team A
PO Box 39430
Tampa, FL 33630-9430

Re: Berkeley Main Post Office Covenant – City of Berkeley and National Trust Comments

Dear Ms. Sarver,

The City of Berkeley (the City) and National Trust for Historic Preservation (National Trust) appreciate the opportunity to comment on the May 7, 2014, version of the Berkeley Main Post Office Covenant (Covenant). As you know the City and the National Trust are consulting parties to the Section 106 process, and we are committed to ensuring that the Berkeley Main Post Office (Property) is properly protected and preserved in the disposition process.

On February 7, 2014, the United States Postal Service (USPS) circulated a draft preservation covenant for the Main Berkeley Post Office on Allston Way to various consulting and other parties, including the City of Berkeley and the National Trust, and requested comments from all parties by February 24th.

The City worked with the National Trust to prepare a set of joint comments, and submitted them on February 24, 2014. Because they were quite extensive, these comments took the form of a proposed replacement covenant.

On May 7, 2014, the USPS circulated the (May 7th draft) Covenant and requested that any responsive comments be submitted by May 27th. The USPS subsequently extended that deadline to July 11th, to allow time for the Berkeley City Council to consider the Covenant. On June 24th, the City Council did so, and expressed the City's position as follows in the form of directions to staff:

1. To make the covenant as restrictive as possible.
2. To maintain public access to the building.
3. To maintain the full Post Office uses at the facility.

In addition to expressing the City's views, the following comments include the input from the National Trust as a leading authority on the use of preservation and conservation easements to protect historic resources. We offer them for your careful consideration.

1. Public Art

We understand that the art works in the lobby (the mural and bas relief sculpture, hereinafter “Mural and Relief”) will not be transferred to the purchaser. Rather, the USPS will retain ownership of and responsibility for them, and will loan them to the buyer of the building. However the manner in which the Covenant addresses this issue raises serious concerns.

The Covenant states that the loan agreement “will require the purchaser to undertake certain actions to preserve and protect the Mural and Relief and provide public access thereto on terms stated therein.” In other words, the Covenant itself is essentially silent on the buyer’s obligations with respect to the art work and public access, and leaves these issues for a future agreement that will be solely between the USPS and the purchaser. At a minimum, public access (see Item 2) for viewing the Mural and Relief should be included in the Covenant. Moreover, the terms of the loan agreement should be made available for public review and input well in advance of a sale.

The USPS should consider using the language from the draft Bronx Post Office Covenant to address the protection of the Mural and Relief located on the Property. The provisions of the Bronx Post Office Covenant provide much more clarity on the property owner’s obligations regarding the Mural and Relief and more clearly spell out the USPS’s obligations related to the Mural and Relief. We recommend adopting the following language, which was adapted from the Bronx Post Office Covenant¹:

The Grantor agrees to maintain and preserve the Mural and Relief, individually and collectively, in such locations, and in the same or better condition and state of repair as depicted in the photographs at Exhibit ___ and in accordance with the terms and conditions of this Preservation Covenant while such Mural and Relief remain on the Property. While this obligation to maintain and preserve is reflected in a loan agreement between Grantor and the United States Postal Service (USPS), a copy of which is attached hereto and incorporated herein at Exhibit ___ (“Mural and Relief Loan Agreement”), in the absence or upon the termination of such Mural and Relief Loan Agreement or a successor loan agreement, this obligation to maintain and preserve the Mural and Relief is not waived, terminated, or released. Grantor shall ensure that any restoration of the Mural and Relief shall conform to the American Institute for Conservation of Historic and Artistic Works (AIC) code of ethics and guidelines for practice and the National Park Service conservation guidelines, as these may be amended, replaced or superseded from time to time and the [insert standards for conservation of the Relief]. Grantor shall maintain damage insurance covering the Mural and Relief to their full appraised value, as determined initially on or immediately preceding the Effective Date of this Preservation Covenant by an accredited art appraiser. Grantor shall have such appraised value updated by an accredited art dealer at least every five years measured from the Effective Date of this Preservation Covenant. The damage insurance shall be an “all risk”, wall-to-wall policy subject to only the following standard exclusions: wear and tear, gradual deterioration, terrorism, and war. To the extent these insurance requirements conflict with the terms of any mural loan agreement, including the Mural and Relief Loan Agreement attached as Exhibit ___, the requirements of this paragraph shall control, and the Grantee shall be bound by them.

¹ A copy of the Bronx Post Office Covenant is attached.

2. Public Access

Except in very limited circumstances, such as not providing public access to archeological sites to prevent looting, public access should be included in a Covenant such as this one. While the exact amount of public access may vary from case to case, at a basic level the ability for the public to have an opportunity to see the protected interior of the buildings--on an appropriately controlled basis – is important to the public's understanding and appreciation of the Preservation and Conservation Values protected by the Covenant. In this case the Preservation and Conservation Values include the Mural and Relief. These are an integral component of the Property's significance because of their intrinsic value, as well as the role they have played in the community's experience of the interior of the Property. Long-term preservation of the Property's significance therefore depends on reasonable public access to these features. However the Covenant deletes the City/National Trust proposal regarding public access to the lobby, where the Mural and Relief are located. The Covenant must include some guarantee of substantial public access to the lobby.

3. Inappropriate Limitations on City's Authority

The use of the phrase "significantly affect[s]" interjects a level of ambiguity into the Covenant that makes it difficult for a property owner to know when an alteration would be significant enough to warrant consultation with the City. The standard should be that any construction or alteration of the structure would trigger a review. The City's decision to withhold or condition its approval should be in its sole discretion, and not based on a determination by the property owner as to whether the City is acting reasonably or unreasonably in conditioning or issuing its approval.

A. "Significantly Affects"

In a number of clauses addressing alterations to the Property, the phrase "significantly affect" was added to determine whether alterations affected the Preservation and Conservation Values of the Property. (E.g., Recital D, ¶¶ 1(d)(ii), 1(e).) This phrase would make it difficult for the City or a property owner to know when an alteration triggered consultation with the City, making the covenant difficult and costly to enforce. A clearer alternative approach would be to require that any increase or decrease in the height of, additions to, change in the construction materials of, improvement to, alteration of, reconstruct of, or change affecting the Preservation and Conservation Values must be reviewed and approved by the City. Moreover, the Covenant suggests that the owner decides whether a proposed change "significantly affects" the Preservation and Conservation Values. This is not acceptable to the City or the National Trust.

B. Limitation on Discretion

The City's authority to determine whether the property owner is in compliance with terms of the Covenant has been diminished significantly throughout the Covenant. For example, under Paragraphs 1(a), 1(c), 1(e), and 2(a) the City no longer has the sole discretion to determine whether the property owner is rehabilitating, maintaining, and preserving the Property in accordance with the Secretary of the Interior's Standards (Standards). Because the Standards and Guidelines provide a framework for decision-making about changes to historic properties, it is important that one party has the authority to make a final determination on whether a treatment is consistent with the Standards. Requiring that the City exercise of its discretion be "reasonable" creates ambiguity by restating a principle that is already applicable via the

underlying law. By doing so, the Covenant seems to be suggesting some additional limitation on the City's discretion, without describing the contours of that additional limitation.

C. Time Limit for Decision Making

The Covenant also requires City decisions to be made within 45 days. While this time limitation will work in many cases, it is not realistic when major alterations, or alterations that pose complex challenges, are proposed. Moreover, some alterations will trigger review by the City's Landmarks Preservation Commission and/or the Zoning Adjustments Board. The review, public notice, public hearing, and appeal processes under the applicable ordinances do not permit decisions to be made within 45 days. Furthermore, artificially separating decisions under the Covenant from decisions under City ordinances serves no purpose, since a negative decision under either source of City authority would prevent a proposed alteration from going forward. If the 45-day (or preferably 60-day) limitation is restricted to minor changes and those that do not trigger City regulatory processes, it might be workable.

The City's ability to protect the Property is eroded by the addition of language apparently allowing automatic approval of a property owner's request. (Paragraphs 2(a) and 15.) This means inappropriate alterations could occur to the Property without the City's review and approval. There should not be a procedural mechanism in the Covenant that allows for change or alteration to the Property that is not reviewed and approved by the City.

4. Casualty

The requirement that the property owner receive the City's written consent prior to demolishing all or part of the Property (§ 7(b)) was eliminated from the Covenant. It should be reinserted. If both parties agree that the restoration or rehabilitation of the Property is impractical or impossible, then an agreement should be memorialized in writing that incorporates consent of the City and the property owner.

5. Loophole for "Adaptive Reuse"

The following language was added to Recital E of the Covenant:

The Grantor intends to propose plans for adaptive reuse and rehabilitation of the Property in a manner that may require a substantial level of improvements, all of which improvements shall be done in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (National Park Service, 1997 *et seq*) ("Secretary of Interior's Standards") and subject to applicable land use laws, rules and regulations of the City. Such improvements may affect the Protected² Values, including, without limitation, the height, mass and scale of the building on the Property.

This language should be edited to make it clear that while changes to the Property are anticipated from its adaptive reuse and rehabilitation, such changes must be consistent with the Standards and are subject to review and approval by the City under the terms of the Covenant. The current language of this paragraph creates ambiguity as to whether the Grantor's changes to the Property under its adaptive reuse and rehabilitation plan *must* be accepted by the City

² We believe this should be "Preservation and Conservation", not "Protected".

because they were anticipated as a condition of imposing the Covenant on the Property. Moreover, while this paragraph seems to anticipate that modifications associated with adaptive reuse will be consistent with the Standards, it also appears to contradict itself by stating that “[s]uch improvements may affect the Protected Values, including, without limitation, the height, mass and scale of the building on the Property.”

This language in Recital E should be separated to form its own recital clause. A correlative operative provision should be added to the Covenant to make clear that any changes associated with adaptive reuse will be subject to City review and approval to the same extent as any other changes, thereby closing the loophole that this language seems to create.

6. Standard for Establishing Baseline Condition

Recital D states a new standard for assessing the condition of the Property. In the National Trust’s experience, and depending on the existing condition of the Property, the Covenant should establish that the owner must maintain the property in its “current or better condition.” This ensures that if a property is not in good condition when a covenant or easement is imposed and it is later rehabilitated, then the property owner will be responsible for maintaining the property in the improved condition at a minimum.

7. Archaeology

While we have no objection to requiring testing to locate and protect archaeological deposits, this issue would be better addressed in its own section of the Covenant. In addition, no definition is provided for the term “sensitivity analysis” and no guidance is given in the event that such an analysis determines that archaeological material is present. If archeological issues are of concern to the USPS, then we would propose that language similar to the following model language be included in the Covenant:

The City, at its discretion, may as a condition of granting approval, require Grantor, at Grantor’s cost, to perform an archaeological survey to identify and determine the significance of archaeological deposits. If archaeological deposits are identified, then Grantee may deny or condition approval of topographical changes as appropriate.

Grantor shall take all reasonable precautions to protect archaeological deposits, sites, or features on the Property, and archaeologically significant deposits, sites, or features on the Property shall not be intentionally disturbed or excavated except by or under the supervision of a professionally qualified archaeologist retained by Grantor, and an archaeological plan approved by the City.

8. Maintenance and Repair

A reference to Paragraph 1(c) was added to Paragraph 1(d) (“Maintenance and Repair”), but it is unclear why this cross-reference was provided. With regard to the Grantor’s maintenance obligations, the determination whether the use of in-kind materials is possible should not be at the discretion of the property owner. By granting this sort of discretion to the property owner, the maintenance clause could be used to make changes or alterations to the Property if the property owner makes a determination that it is not feasible to use an in-kind material while performing routine maintenance on the Property. Furthermore, there is no definition provided so that either party understands or agrees what is meant by the term “feasible”.

9. Payment of Fees

The Covenant has problematic language (§ 1(h)) that would prevent the City from recovering the full cost of its administration of the Covenant. The City does not believe that there is a basis for this change. The USPS has subsequently stated that the justification for its position is to “avoid the creation of financial uncertainty” to a purchaser. But under any reasonable scenario, the amount of time the City would spend on administration of the Covenant multiplied by the reasonable hourly rate of the employees would be miniscule in comparison to the normal costs of operating and maintaining the Property for the indefinite future. Moreover, any major alterations would likely trigger City review and permits under the Landmarks Preservation Ordinance and/or Zoning Ordinance, in which case the owner would be required to pay permit fees to compensate the City for its staff time. Since the issues involved in landmarks and/or zoning review would overlap substantially with issues under the Covenant, many of the costs of City review under the Covenant would likely be subsumed in permit fees. (We note that this efficiency is another reason not to artificially divorce these reviews by requiring all decisions under the Covenant to be made within 45 days.) Nonetheless, the City is willing to accept a lump sum payment of \$75,000 in lieu of future hourly reimbursement for administration and enforcement of the Covenant (but not permit fees).

10. Taxes

The paragraph requiring payment of taxes that was proposed by the City and the National Trust was removed from the Covenant. It should be reinserted. The ability of the City to pay taxes in the event that the property owner fails to do so ensures that the City can step in and avoid a tax sale of the Property. This may allow the governmental agency selling the Property to sell it free and clear of any existing encumbrances like the Covenant.

11. Notice from Government Authorities

Similarly, the paragraph proposed by the City and the National Trust requiring the property owner to provide the City with notices of violations or liens related to the Property was removed from the Covenant. It should be restored. This paragraph allows the City, as the Covenant holder, to have notice of violations or liens that may affect the Preservation and Conservation Values of the Property or the perpetual nature of the Covenant.

12. Insurance

Adequate insurance coverage ensures that in the case of damage the necessary resources will be available to repair the Property in a manner that retains/restores the Preservation and Conservation Values. Paragraph 6 has been amended to eliminate language prohibiting contributions or coinsurance. This could allow a property owner to significantly underinsure the Property and not have the financial resources to address property damage. The language proposed by the City and the National Trust should be reinserted.

13. Remedies

A right of notice was included for any mortgagee of the Grantor in the Covenant (§ 9(b)). This additional right is unnecessary and could delay the City in its ability to enforce its rights under the Covenant. Because the Property will not be encumbered by a mortgage at the time the Covenant is put in place, any mortgagee will have notice of the Covenant and the City's rights

thereunder. Therefore in the future the City should not have an obligation to track down a mortgagee and provide it with notice prior to instituting a suit or seeking a remedy.

14. Perpetual Covenant

Paragraphs 3 and 14 are similar and should be combined.

15. Use of Property

Finally, we come to the issue of future use of the Property. As noted by the City Council at its June 24th meeting, continued use of this facility for postal services is a priority. But we would like to emphasize that post office use does not exclude other uses. Continued post office use is important, but still allows for adaptive reuse of other parts of the building for new functions.

The ACHP's Report to Congress concludes in finding number 6 that change of a post office's historic use can constitute an adverse effect when the National Register listing of the property is tied to that use. 36 CFR § 800.5(a)(2)(iv). And indeed historic post office use framed the significance in the 1980 National Register nomination:

The Berkeley Post Office ... embodies for the City of Berkeley the sense of mission which the government then put into its public buildings – “buildings which will educate and develop the public taste & eventually elevate it to a higher plane” The lobby, particularly, is a civic treasure Berkeley has few if any comparable public spaces where citizens from all over the city come frequently and freely and can experience the quality workmanship and civic pride that used to be part of government building.... The authorization of a post office building for Berkeley in 1910, and its completion in 1914, symbolized the city's coming of age.... Downtown Berkeley is still essentially the Main Street that developed in the 1910s & 20s, and the well-patronized post office is important in keeping it alive.

Based on the National Register nomination in this case, the use of the Property as a post office – the use for which it was designed and constructed – is itself an integral Preservation and Conservation value. Accordingly, the preservation of this use is the preferred use of the building in order to preserve its identified historical and cultural value. In derogation of the significance of the post office use in this case, however, the Covenant deletes a statement in Recital C.3 of the City/National Trust covenant that one of the Preservation and Conservation values is the historic use of the building as a post office, as well as a provision that would require that the retail portion of the building be leased back to the USPS for 50 years for operation as a post office. (Paragraph 1(i).)

In a subsequent letter the USPS stated that this term is not feasible, and that it intends to require only a five-year leaseback, with three additional five-year options. This is inconsistent with the City Council's desire that the use of the facility as a post office be retained and that the Covenant be as restrictive as possible. The USPS letter states that due to the transaction costs of moving, it generally exercises such options to remain in place. Thus the required leaseback term should be a minimum of 20 years, even under the USPS's reasoning. As noted above, the City Council's position is that the Property should include full post office uses (e.g., bulk mail service and package pickup should be restored) for the long term. The parties are far apart on this issue.

Ann Sarver

July 9, 2014

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If you have any questions about our comments, please feel free to contact Zach Cowan via email at zcowan@cityofberkeley.info or bturner@savingplaces.org.


Very truly yours,

City of Berkeley



By: Zach Cowan
City Attorney

National Trust for Historic Preservation



By: Brian Turner
Senior Field Officer & Attorney, San Francisco Field Office

cc: Tom Samra, Vice President, Facilities, USPS
Sharon Freiman, Chief Counsel, Procurement and Property Law, USPS
R. Clark Morrison, Cox Castle Nicholson
Antonio Rossmann
Carol Rowland-Nawi, SHPO

**Memorandum of Agreement
Regarding the USPS's Sale of
558 Grand Concourse
Bronx, New York**

For one dollar (\$1.00) and other valuable consideration, under the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, 16 USC Sec. 470 et seq., the parties signing below approve the following Preservation Covenant as to form, and agree to the following supplemental terms and conditions:

- (1) The United States Postal Service (USPS), Proposed Grantor under the Deed to the prospective Grantee, described below, acknowledges that it is the strong preference of the New York City Landmarks Preservation Commission (NYC LPC) and the New York Landmarks Conservancy (Conservancy) that the Murals described in the Preservation Covenant, below, remain on the Property. The USPS will provide prior notice and opportunity to comment to the NYC LPC, New York State Historic Preservation Office, and the Conservancy before removing any of the Murals and that no removal by the USPS of the Murals shall be done except in accordance with Section 106 of the National Historic Preservation Act and the implementing regulations.
- (2) Upon its grant and transfer of the Property, described below, the USPS will require, as a condition of closing, that the buyer ("Grantee" under the Preservation Covenant) execute the Preservation Covenant substantially in the form, below. Any modifications to the Preservation Covenant, below, must be approved by the NYC LPC and the Conservancy, which approval may be withheld. The NYC LPC and the Conservancy shall be provided copies of the recorded Preservation Covenant.
- (3) These supplemental terms and conditions may be enforced in law or in equity by the NYC LPC and the Conservancy, individually or jointly, and by the Commissioner, New York Office of Parks, Recreation and Historic Preservation in accordance with Section 106 of the National Historic Preservation Act and the implementing regulations.

Signatory Party:

_____ (Date) _____

Robert B. Tierney
Chair, New York City Landmarks Preservation Commission

**Memorandum of Agreement
Regarding the USPS's Sale of
558 Grand Concourse
Bronx, New York**

Signatory Party:

_____ (Date) _____

Peg Breen
President, New York Landmarks Conservancy

**Memorandum of Agreement
Regarding the USPS's Sale of
558 Grand Concourse
Bronx, New York**

Signatory Party:

_____ (Date) _____
Ruth Pierpont
Deputy State Historic Preservation Officer

**Memorandum of Agreement
Regarding the USPS's Sale of
558 Grand Concourse
Bronx, New York**

Signatory Party:

_____ (Date) _____
Dallan Wordekemper
Federal Preservation Officer, United States Postal Service

PRESERVATION COVENANT

558 Grand Concourse Bronx, New York

In consideration of the conveyance by Deed dated _____ from the United States Postal Service (the “Grantor”) to _____ [buyer] (the “Grantee”) of certain real property located at 558 Grand Concourse in the Borough of Bronx, in the City and County of Bronx, State of New York as such property is more particularly described in the legal description attached to the Deed at Exhibit ___, which legal description is also attached to this Preservation Covenant at Exhibit A and incorporated herein (the “Property”), the Grantee hereby agrees with and covenants to the Grantor, the New York City Landmarks Preservation Commission, a bureau of the government of the City of New York, New York, having an office at 1 Centre Street, 9th Floor North, New York, New York 10007 and the New York Landmarks Conservancy, a New York not-for-profit organization having an office at One Whitehall Street, New York, New York 10004 (the “Covenantees”), as follows:

- (1) In accordance with and under the authority of N.Y. Env. Cons. Law §§ 49-0301 to 49-0311, the Grantee hereby grants to the Covenantees in perpetuity on behalf of itself, its heirs, successors and assigns, the covenant and servitude at all times to maintain and preserve the Property’s Historic Features (as depicted in the photographs, measured drawings and site plan attached hereto and incorporated herein at Exhibit B and as further defined in paragraph 3 of this Preservation Covenant) in accordance with the “Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings” (National Park Service, 1997, 36 CFR Sec. 67), as these may be amended from time to time (“Secretary’s Standards”) in order to preserve those qualities that make this Property eligible for listing on the National Register of Historic Places and in order to preserve the Murals hereinafter described. Grantee shall at all times maintain the Historic Features (hereinafter defined) in the same or better condition as that existing on the Effective Date (hereinafter defined) of this Preservation Covenant. Grantee’s obligation to maintain shall require Grantee to replace, repair, and/or reconstruct the Historic Features in the same or better condition, state of repair, and appearance as that existing on the Effective Date of this Preservation Covenant, as such condition and state of repair is depicted in the photographs, measured drawings and site plan at Exhibit B. Grantee’s obligation to maintain the Historic Features shall be performed in accordance with the Secretary’s Standards and shall include, without limitation, the use by Grantor of in kind materials and colors, applied with workmanship comparable to that which was used in the original construction or application of those materials being repaired or maintained. Notwithstanding the foregoing, if because of circumstances beyond its control the Grantee believes it is necessary for Grantee to make changes in appearance, materials, colors, and original workmanship to all or any portion of the Historic Features, or if there has been significant deterioration or damage to all or any portion of the Historic Features which is determined by an appropriate governmental agency having jurisdiction over the Property to be a danger to human health or the environment, then Grantee may make changes to the appearance, materials, colors and original workmanship of the Historic Features but only with the prior written approval of both the New York City Landmarks Preservation Commission (NYC LPC) and the New York Landmarks Conservancy

(Conservancy), which approval in the sole discretion of either the NYC LPC or the Conservancy may be withheld or conditioned except and to the extent that an applicable governmental entity has determined that there exists an imminent threat to human health or the environment and Grantee reasonably believes that Grantee is likely to be subject to fines or penalties or other governmental enforcement action should Grantee fail to make such changes.

- (2) The Grantee hereby acknowledges that (a) the Property is listed on the National Register of Historic Places and is a designated New York City landmark; (b) that the lobby of the building located on the Property has been designated as a New York City Interior Landmark; (c) that the lobby contains thirteen (13) fresco murals by noted Depression-era artist Ben Shahn as shown in the photographs attached hereto and incorporated herein at Exhibit C (the “Murals”); and therefore (d) the Grantee and its heirs, successors and assigns covenant and agree to maintain and preserve the Murals, individually and collectively, in such locations, and in the same or better condition and state of repair as depicted in the photographs at Exhibit C and in accordance with the terms and conditions of this Preservation Covenant while such Murals remain on the Property. While this obligation to maintain and preserve is reflected in a loan agreement between Grantee and the United States Postal Service (USPS), a copy of which is attached hereto and incorporated herein at Exhibit D (“Mural Loan Agreement”), in the absence or upon the termination of such Mural Loan Agreement or a successor loan agreement, this obligation to maintain and preserve the Murals is not waived, terminated or released. Grantee shall ensure that any restoration of the Murals shall conform to the American Institute for Conservation of Historic and Artistic Works (AIC) code of ethics and guidelines for practice and the National Park Service conservation guidelines, as these may be amended, replaced or superseded from time to time. Grantee shall maintain damage insurance covering the Murals to their full appraised value, as determined initially on or immediately preceding the Effective Date of this Preservation Covenant by an accredited art appraiser. Grantee shall have such appraised value updated by an accredited art dealer at least every five years measured from the Effective Date of this Preservation Covenant. The damage insurance shall be an “all risk”, wall-to-wall policy subject to only the following standard exclusions: wear and tear, gradual deterioration, terrorism, and war. To the extent these insurance requirements conflict with the terms of any mural loan agreement, including the Mural Loan Agreement attached at Exhibit D hereto, the requirements of this paragraph shall control, and the Grantee shall be bound by them.
- (3) No construction, alteration or rehabilitation shall be undertaken or permitted to be undertaken that would affect the Historic Features of the Property without consultation with and the express permission of the Conservancy and NYC LPC. The Historic Features are shown and described on Exhibit B hereof and are further defined as: (1) the exterior envelope of the building located on the Property and (2) the interior lobby area of the Property, as depicted in the attached site plan, photographs and measured drawings at Exhibit B.
- (4) No construction, alteration or rehabilitation shall be undertaken or permitted to be undertaken with respect to the aforementioned Historic Features without NYC LPC approval under the New York City Landmarks Law [Charter of the City of New York §§ 3020 et seq. and the Administrative Code of the City of New York §§25-301 et seq.] and compliance with all other laws applicable to Grantee. Grantee acknowledges that such compliance may include the requirement that the

Conservancy co-sign all applications to the LPC that affect the exterior or designated interior.

- (5) The Conservancy and NYC LPC, jointly and severally, shall be permitted at all reasonable times during Grantee's business hours to inspect the Property in order to ascertain if the above conditions are being met. The entity requesting the inspection shall provide advance written notification of the date and time that such entity wishes to inspect the Property to Grantee.
- (6) In the event of a violation of this covenant by Grantee, and in addition to any remedy now or hereafter provided by law, NYC LPC may, following delivery of reasonable notice to the Grantee ("Cure Notice"), with a copy to the Conservancy, and a reasonable opportunity to cure such violation in a manner reasonably satisfactory to the NYC LPC, institute suit to enjoin said violation or to require the restoration of the Historic Features of the Property which have been damaged, altered, modified or destroyed. Remedies shall include, but not be limited to, specific performance, permanent injunction and/or damages. In the event that NYC LPC fails to enforce the obligations of Grantee under this Preservation Covenant, the Conservancy shall have the right to issue a Cure Notice and institute a suit to enjoin said violation in the same manner as NYC LPC outlined above. In the event Grantee is found to have violated any of its obligations under this Preservation Covenant, Grantee shall reimburse the Conservancy and/or the NYC LPC, as applicable, for any reasonable costs or expenses incurred by the Conservancy and/or the NYC LPC in connection with their enforcement of the terms of this preservation covenant, including but not limited to all reasonable: court costs, and attorneys, architectural, engineering, and expert witness fees.
- (7) This Preservation Covenant is binding on the Grantee, its heirs, successors and assigns in perpetuity and shall run with the land. All stipulations and covenants contained herein shall be inserted by the Grantee verbatim or by express reference in any deed or other legal instrument by which the Grantee divests itself of any interest in the Property or any part thereof. Use of the term "Grantee" herein shall mean and include the original Grantee _____, and all of its heirs, successors and assigns in perpetuity.
- (8) The failure of the NYC LPC and/or the Conservancy to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or use of such right or remedy at any other time.
- (9) Execution of this Preservation Covenant shall constitute conclusive evidence that the Grantee agrees to be bound by the foregoing conditions and restrictions and to perform to obligations herein set forth. This Preservation Covenant shall be self-executing and thus, the failure of the Conservancy, NYC LPC, or USPS to execute this Preservation Covenant shall not impair its effectiveness or impede its enforcement against Grantee.
- (10) The unenforceability of any term or provision in the Preservation Covenant shall not affect the validity of the remaining sections or portions of the Preservation Covenant.
- (11) Subject to the conditions and requirements of the laws and regulations of the City of New York, the State of New York, and the United States of America (including, but not limited to, those City, State and federal laws and regulations governing the activities of governmental agencies and tax-exempt charitable organizations and governing preservation covenants and easements granted in perpetuity), the NYC

_____ (Date) _____

Dallan Wordekemper
Federal Preservation Officer, United States Postal Service

District of Columbia

This instrument was acknowledged before me on _____ by Dallan C. Wordekemper as
the Federal Preservation Officer of the United States Postal Service.

Signature of notarial officer
(Seal, if any)

Title
Commission expires: _____

Exhibit A:
The Property (legal description)

TITLE NO. TA#12(02)365

STEWART TITLE INSURANCE COMPANY

SCHEDULE A

- I. Effective Date: September 15, 2012
- II. Policy or Policies to be issued:
- [X] ALTA (6-17-06) Owner's Policy
- in the amount of: \$TO BE DETERMINED
- Proposed Insured: TO BE DETERMINED
- [] ALTA (6-17-06) Loan Policy
- in the amount of: \$
- Proposed Insured:
- III. Premises (For Information Only):
- SECTION: 9
- BLOCK: 2443 (formerly Old Block 2347)
- LOT: 400 (formerly Old Lots 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 54)
- ADDRESS: 558 Grand Concourse
Bronx, New York
- IV. The estate or interest in the land described in and covered by this certificate is a fee simple estate and title thereto at the Effective Date hereof is vested in:
- SEE CERTIFICATION PAGE
- V. The land covered by this certificate is described on the following description sheet(s):

FINAL

TITLE NO. TA#12(02)365

CERTIFICATION - SCHEDULE A

Title at the Effective Date hereof is vested in:

The United States of America

Title acquired by:

(A) (i) As to Old Lots 54, 39 and 40:

Deed dated May 3, 1910, recorded May 26, 1910 in Liber 82 page 333 Section 9 made by Henry Lewis Morris and Anna Rutherford Morris.

(ii) As to Old Lot 41:

Deed dated April 7, 1913, recorded October 13, 1913 in Liber 96 page 224 Section 9 made by Eleanor M. Kelly.

(iii) As to Old Lot 42:

Deed dated April 25, 1913, recorded October 31, 1913 in Liber 95 page 242 Section 9 made by Mary Randall, as Sole Surviving Executors (sic) and Trustees under the Last Will and Testament of George H. Rockwood.

(iv) As to Old Lot 43:

(a) Deed dated April 8, 1913, recorded October 31, 1913 in Liber 95 page 240 Section 9 made by Edward C. Kelly and Emma S. Kelly, as Executors and Trustees under the Last Will and Testament of Adeline G. Kelly. Conveys a $\frac{1}{2}$ interest.

(b) Deed dated April 11, 1913, recorded November 17, 1913 in Liber 96 page 246 Section 9 made by Edward C. Kelly. Conveys a $\frac{1}{2}$ interest.

(v) As to Old Lot 44:

Deed dated July 17, 1914, recorded July 17, 1914 in Liber 99 page 214 Section 9 made by Fanny S. Norton.

(vi) As to Old Lots 45 and 46:

Deed dated April 3, 1913, recorded October 31, 1913 in Liber 96 page 225 Section 9 made by Charles Wiener and Anna C. Wiener, his wife.

(vii) As to Old Lot 47:

Deed April 3, 1913, recorded October 31, 1913 in Liber 95 page 239 Section 9 made by Anna C. Wiener.

TITLE NO. TA#12(02)365

CERTIFICATION - SCHEDULE A
(CONTINUED)

(viii) As to Old Lots 48, 49, 50, 51, 52 and 53:

Deed dated March 21, 1913, recorded October 13, 1913 in
Liber 95 page 244 Section 9 made by Richard G. Wiener and
Fannie Wiener, his wife.

(B) In the matter of the Condemnation and Acquisition by the United
States of America of land for a site for a United States Post
Office in the Borough of Bronx, New York:

(i) Agreement made by the District Court of the United States of
America for the Southern District of New York, dated
November 21, 1912, recorded October 31, 1913 in Liber 95
page 247 Section 9; and

(ii) Final Order made by the District Court of the United States
for the Southern District of New York, dated October 29,
1913, recorded October 31, 1913 in Liber 95 page 248 Section
9.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A

AS TO OLD LOTS 54, 39 AND 40

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the westerly side of Spencer Place with the northerly side of 149th Street;

RUNNING THENCE westerly along said northerly side of 149th Street 196.20 feet to the corner formed by the intersection of the said northerly side of 149th Street with the easterly side of Mott Avenue;

THENCE northerly along said easterly side of Mott Avenue 29.81 feet;

THENCE easterly on a line at right angles with said side of Mott Avenue and for a portion of the distance through a party wall 95.73 feet;

THENCE northerly 50.20 feet to a point distant 94.87 feet easterly from the easterly side of Mott Avenue (measured at right angles to said Avenue);

THENCE westerly on a line drawn at right angles to the said easterly side of Mott Avenue 2.46 feet;

THENCE again northerly 199.72 feet to the southerly line of 150th Street at a point thereon distant 100.38 feet westerly measured along the same from the corner formed by the intersection of the said southerly side of 150th Street with the westerly side of Spencer Place;

THENCE easterly along the southerly side of 150th Street 100.38 feet to the corner last mentioned; and

THENCE southerly along the westerly side of Spencer Place 276.37 feet to the point or place of BEGINNING.

NOTE:

- (i) Spencer Place, now known as Anthony J. Griffin Place.
- (ii) Mott Avenue, now known as Grand Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

AS TO OLD LOT 41

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Mott Avenue distant 50 feet north of the northwesterly corner of Mott Avenue and 149th Street, as said 149th Street formerly existed;

RUNNING THENCE easterly on a line at right angles to said side of Mott Avenue and for a portion of the distance through the centre of a party wall 105.73 feet;

THENCE northerly 16.67 feet;

THENCE westerly on a line at right angles to said side of Mott Avenue and for a portion of the distance through the centre of a party wall 105.44 feet to said easterly side of Mott Avenue; and

THENCE southerly along the same 16.67 feet to the point or place of BEGINNING.

EXCEPTING THEREFROM so much of said premises as was taken by the City of New York for the widening of Mott Avenue.

NOTE:

- (i) Mott Avenue, now known as Grant Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

AS TO OLD LOT 42

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Mott Avenue distant 63.16 feet northerly from the corner formed by the intersection of the said easterly side of Mott Avenue and the northerly side of East 149th Street, as said Avenue and Street are now legally opened;

RUNNING THENCE easterly on a line at right angles to said easterly side of Mott Avenue and part of the distance through a party wall 95.17 feet;

THENCE northerly 16.67 feet;

THENCE westerly on a line at right angles to said easterly side of Mott Avenue 94.88 feet to said easterly side of Mott Avenue; and

THENCE southerly along said easterly side of Mott Avenue 16.67 feet to the point or place of BEGINNING.

EXCEPT so much thereof has been taken by the City of New York for the opening and widening of Mott Avenue.

NOTE:

(i) Mott Avenue, now known as Grant Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

AS TO OLD LOT 43

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Mott Avenue distant 66.67 feet north of the northeasterly corner of Mott Avenue and 149th Street;

RUNNING THENCE easterly on a line at right angles to said side of Mott Avenue and for a portion of the distance through the centre of a party wall 105.44 feet;

THENCE northerly 16.67 feet;

THENCE westerly on a line at right angles to said side of Mott Avenue and for a portion of the distance through the centre of a party wall 105.16 feet to said side of Mott Avenue; and

THENCE southerly along the same 16.67 feet to the point or place of BEGINNING.

EXCEPT so much of the said premises as has been taken by the City of New York for the opening and widening of Mott Avenue.

NOTE:

(i) Mott Avenue, known as Grand Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

AS TO OLD LOT 44

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Mott Avenue distant 100 feet northeasterly from the proposed northeasterly corner of said Avenue and 149th Street as laid down on the "Map of the Town of Morrisania made by the Commissioners appointed by Chapter 841 of the Laws of 1868"; and

RUNNING THENCE northeastwardly and along said easterly side of Mott Avenue, 25 feet;

THENCE southeastwardly and in a line at right angles to the easterly side of or line of Mott Avenue 102.16 feet to the centre line of the block;

THENCE southwestwardly and along the centre line of the block, 25 feet; and

THENCE northwestwardly and in a line at right angles to the easterly side or line of Mott Avenue 102.41 feet to said easterly side of Mott Avenue, the point or place of BEGINNING.

The wall on the northeasterly side of said premises being a party wall.

EXCEPTING THEREFROM so much thereof as has been taken by the City of New York for the opening or widening of Mott Avenue.

NOTE:

(i) Mott Avenue, now known as Grant Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

AS TO OLD LOTS 45 AND 46

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Mott Avenue distant 125 feet southerly from the southeasterly corner of Mott Avenue and 150th Street;

RUNNING THENCE eastwardly on a line at right angles to said side of Mott Avenue and part of the way through a party wall, 101.69 feet;

THENCE southerly and parallel with Mott Avenue, or nearly so, 50 feet;

THENCE westwardly on a line at right angles to the said side of Mott Avenue and part of the way through the centre of a party wall, 102.17 feet to the easterly line of Mott Avenue; and

THENCE northerly along the easterly side of Mott Avenue, 50 feet to the point or place of BEGINNING.

Being the said several distances and dimensions, more or less.

EXCEPTING THEREFROM such portion thereof as has been taken by and conveyed to the City of New York for the widening of Mott Avenue.

NOTE:

(i) Mott Avenue, now known as Grand Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

AS TO OLD LOT 47

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Mott Avenue distant 100 feet southerly from the southeasterly corner of Mott Avenue and 150th Street;

RUNNING THENCE southerly along said side of Mott Avenue 25 feet;

THENCE easterly on a line at right angles to said Mott Avenue and for a portion of the distance through the centre of a party wall 101.69 feet to the centre line of the block;

THENCE northerly along said centre line 25 feet;

THENCE westerly on a line at right angles to Mott Avenue 101.45 feet to the point or place of BEGINNING.

Being the said distances and directions, more or less.

EXCEPTED FROM the above described premises so much of the land as was heretofore taken by the City of New York.

NOTE:

(i) Mott Avenue, now known as Grand Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

AS TO OLD LOT 48

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Mott Avenue, as located on October 15, 1884, distant southerly 83 feet 4 inches from the corner formed by the intersection of the southerly line of 150th Street with the easterly line of Mott Avenue, located as aforesaid;

THENCE RUNNING easterly and parallel with 150th Street 101.25 feet or thereabouts;

THENCE southerly in a line drawn parallel to Mott Avenue, or nearly so, 16 feet 8 inches;

THENCE westerly in a line parallel with 150th Street 101.45 feet or thereabouts to the easterly line of Mott Avenue; and

THENCE northerly along the easterly line of Mott Avenue 16 feet 8 inches to the point or place of BEGINNING.

Be the said several distances and dimensions, more or less.

EXCEPTING HEREFROM however such portion of said premises as have been taken by the City of New York for the widening of Mott Avenue on the easterly side thereof.

NOTE:

(i) Mott Avenue, now known as Grant Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

AS TO OLD LOT 49

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Mott Avenue distant 66 feet 8 inches southerly from the corner formed by the intersection of the southerly side of 150th Street with the easterly line of Mott Avenue;

THENCE RUNNING easterly and parallel with 150th Street 101.12 feet or thereabouts;

THENCE southerly in a line drawn parallel to Mott Avenue, or nearly so, 16 feet 8 inches;

THENCE westerly in a line parallel with 150th Street 101.29 feet or thereabouts to the easterly line of Mott Avenue; and

THENCE northerly along said line of said Avenue 16 feet 8 inches to the point or place of BEGINNING.

Be the said several distances and dimensions, more or less.

EXCEPTING however so much of above described premises as have been taken and acquired by the City of New York for widening and improvement of Mott Avenue.

NOTE:

- (i) Mott Avenue, now known as Grant Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

AS TO OLD LOTS 50 AND 51

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Mott Avenue distant 33.32 feet southerly from the southeasterly corner of Mott Avenue and 150th Street;

RUNNING THENCE eastwardly on a line at right angles to said Mott Avenue and part of the way through a party wall 100.81 feet;

THENCE southwardly and parallel with Mott Avenue or nearly so 33.32 feet;

THENCE westwardly on a line at right angles to said side of Mott Avenue and part of the way through a party wall 100.13 feet to the easterly line of Mott Avenue; and

THENCE northwardly along the easterly line of Mott Avenue 33.32 feet to the point or place of BEGINNING.

Be the said several distances and dimensions, more or less.

EXCEPT so much taken by the City of New York for the widening of Mott Avenue.

NOTE:

(i) Mott Avenue, now known as Grant Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

AS TO OLD LOT 52

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Mott Avenue distant 16.66 feet southerly from the southeasterly corner of Mott Avenue and 150th Street;

RUNNING THENCE easterly on a line at right angles to said Mott Avenue and for a portion of the distance through a party wall 100.65 feet;

THENCE southerly and parallel with said side of Mott Avenue or nearly so 16.66 feet;

THENCE westerly on a line at right angles to said side of Mott Avenue and for a portion of the distance through a party wall 100.81 feet to the said side of Mott Avenue; and

THENCE northerly along the same 16.61 feet to the point or place of BEGINNING.

Be the said several distances and dimensions, more or less.

EXCEPT so much taken by the City of New York for the widening of Mott Avenue.

NOTE:

(i) Mott Avenue, now known as Grant Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

AS TO OLD LOT 53

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Bronx, County of Bronx, City of New York, State of New York, bounded and described as follows:

BEGINNING at the southeasterly corner of Mott Avenue and 150th Street;

RUNNING THENCE southwardly along the easterly side of Mott Avenue 16.66 feet;

THENCE eastwardly on a line at right angles to said side of Mott Avenue and part of the way through a party wall 100.65 feet;

THENCE northwardly parallel with Mott Avenue or nearly so 16.68 feet to the southerly line of 150th Street; and

THENCE westwardly along the southerly line of 150th Street 100.49 feet to the point or place of BEGINNING.

Be the said several distances and dimensions, more or less.

EXCEPT so much thereof as has been taken by the City of New York for the widening of Mott Avenue.

NOTE:

(i) Mott Avenue, now known as Grant Boulevard and Concourse.

FINAL

TITLE NO. TA#12(02)365

DESCRIPTION - SCHEDULE A
(CONTINUED)

PERIMETER DESCRIPTION

A perimeter description will be provided upon receipt of a guaranteed survey encompassing the old lots set forth herein.

FINAL

Exhibit B:
The Historic Features (photographs, measured drawings and site plan)

Historic features include the exterior envelope of the building located on the Property and the interior lobby area of the Property.

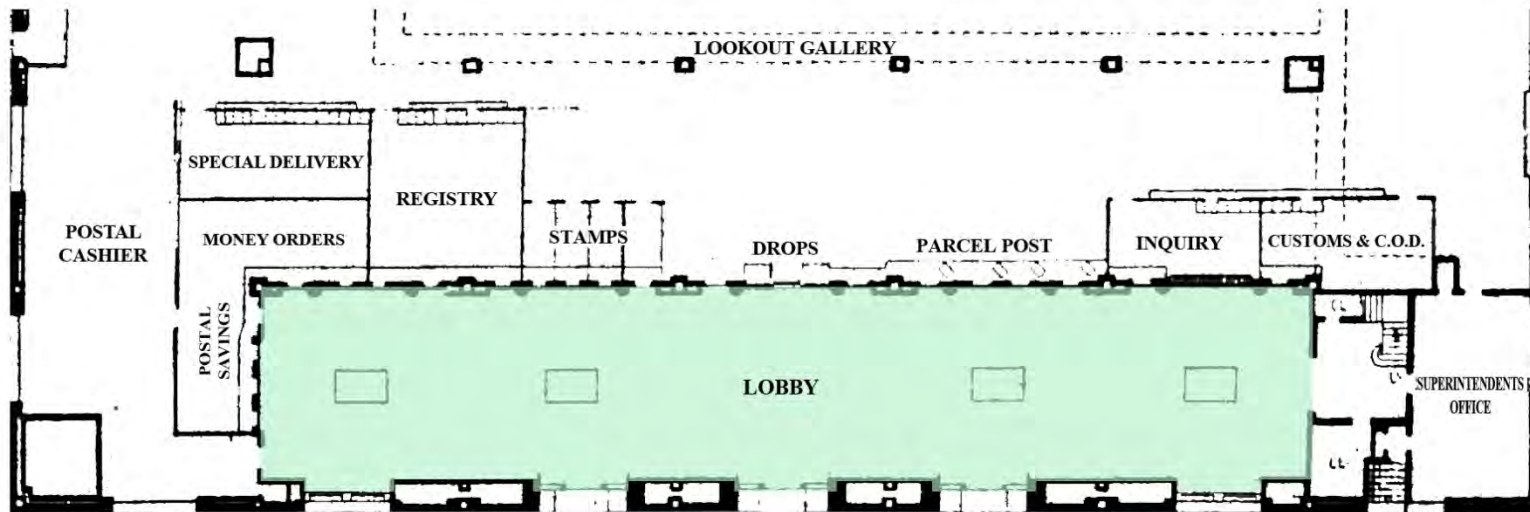
Excerpts from the Landmark Preservation Commission's Designation Report for the Bronx General Post Office Interiors (December 2013)

BRONX GENERAL POST OFFICE LOBBY, FIRST FLOOR INTERIOR, consisting of the lobby and the fixtures and components of this space, including but not limited to, the wall surfaces, murals, wainscoting, ceiling surfaces, floor surfaces, columns, plaque, metal gate and globe lighting fixtures.

Description

The Bronx General Post Office Lobby is divided into five bays corresponding to the three central entrance openings and the flanking two window openings in the building's primary (west) facade; floor-to-ceiling marble Ionic columns support a plastered fascia; patterned floor consists of light-gray marble and dark-gray terrazzo; marble wainscot; plastered coffered ceiling with simplified ornamental rosettes; historic pendant globe light fixtures decorated with eagle figures centered above each bay. West wall: center three bays contain entrance openings; flanking bays contain recessed window openings, fitted with marble-and-bronze radiator covers; murals installed on walls between bays, above marble wainscoting punctured with bronze radiator grilles. East wall: each of the five bays divided into three sections by engaged columns; murals installed on walls between bays above marble wainscoting; left two bays contain service counters with non-historic security windows set above historic marble wainscot; center and right two bays contain recessed post office box nooks flanked by doorways. South wall divided into sections by marble pilasters; central section features a central doorway with a historic bronze gate set below a marble plaque memorializing the erection of the building; murals installed in flanking sections above marble wainscoting. North wall divided into three sections by marble pilasters; left section contains doorway with non-historic door and frame; middle and right section contain service counters with non-historic security windows set above historic marble wainscot; murals installed in upper portion of each section above door and customer service windows.

Alterations: Entrance vestibules removed and replaced with exterior door infill; east wall partially reconfigured with three recessed nooks; metal grille between lobby and work spaces, forming upper section of east wall, replaced or covered over; interior doors and customer service windows replaced; metal ductwork installed in front of fascia on west wall; historic square recessed light fixtures replaced with can light fixtures with exposed conduit; historic furniture—including writing desks centered in four flanking bays—removed and non-historic furniture installed, including post office box kiosk, self-service kiosk, information kiosks, and writing desks.



Bronx General Post Office Lobby
 * Based on Lobby Plan Bronx Post Office, *Architectural Forum*, June 1938, Pg. 12

BRONX GENERAL POST OFFICE LOBBY, FIRST FLOOR INTERIOR, consisting of the lobby and the fixtures and components of this space, including but not limited to, the wall surfaces, murals, wainscoting, ceiling surfaces, floor surfaces, columns, plaque, metal gate and globe lighting fixtures, 560 Grand Concourse (aka 554-582 Grand Concourse), Bronx.



Bronx General Post Office Lobby, First Floor Interior

Draft mural cartoons installed for public inspection

Photo: Gottscho-Schleisner, Inc. (December 5, 1938)

Courtesy Museum of the City of New York



View looking southeast

Photo: Christopher D. Brazee (December 12, 2013)

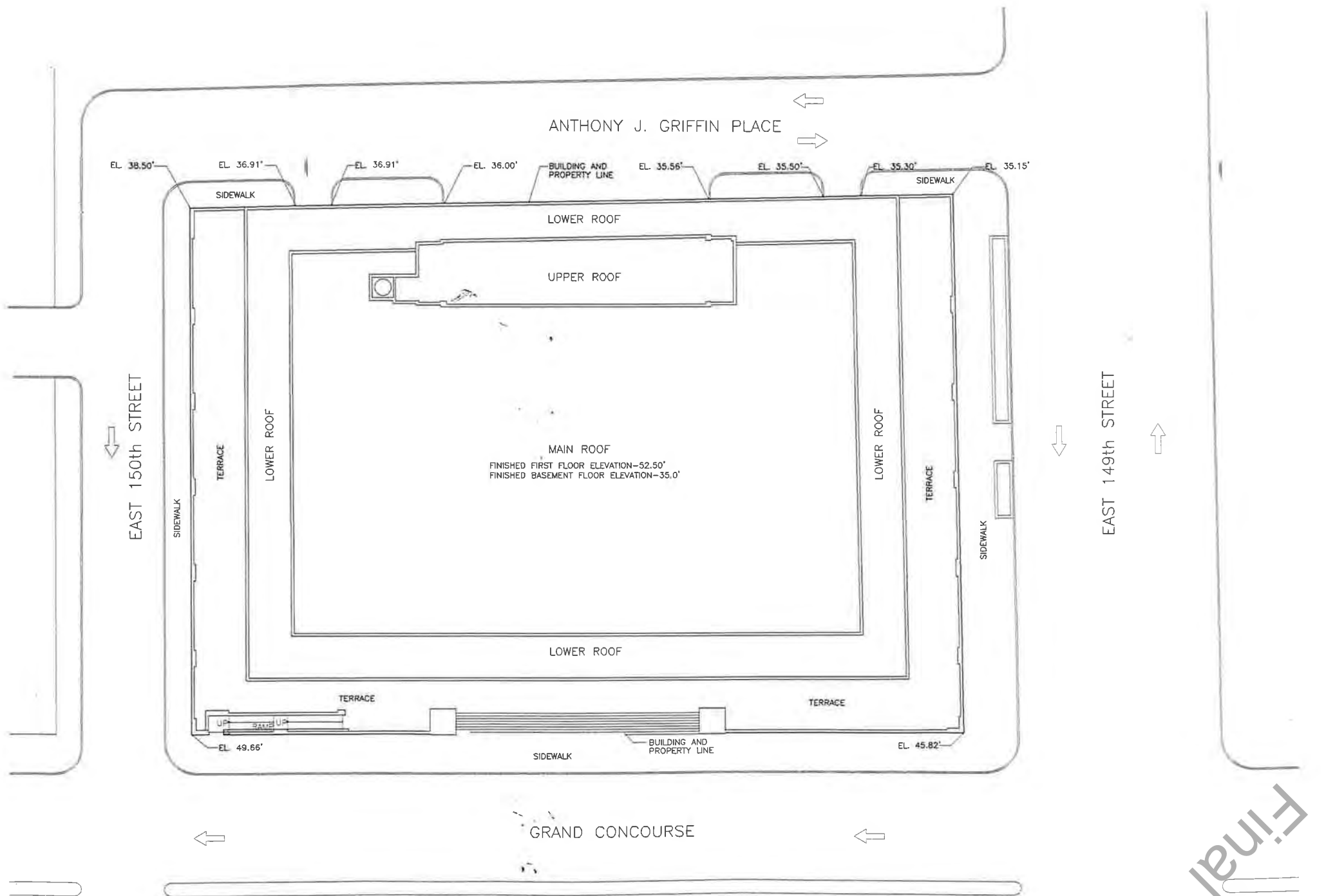
Photo taken with permission of the United States Postal Service



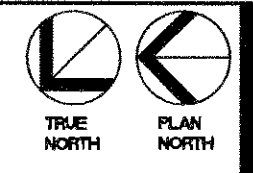
Shortly after 1970s alterations
Photo: Stephen L. Senigo (September 1979)



View looking northeast
Photo: Christopher D. Brazee (December 12, 2013)
Photo taken with permission of the United States Postal Service



Final



VERTICAL DIMENSIONS: LUCK LATH & ASSOCIATES, INC. 200 WEST 10TH STREET, NEW YORK, NY 10014 TEL: (212) 249-1000 FAX: (212) 249-1001

STRUCTURAL: CEC, INC. 200 WEST 10TH STREET, NEW YORK, NY 10014 TEL: (212) 249-1000 FAX: (212) 249-1001

Mechanical: CEC, INC. 200 WEST 10TH STREET, NEW YORK, NY 10014 TEL: (212) 249-1000 FAX: (212) 249-1001

MECHANICAL: CEC, INC. 200 WEST 10TH STREET, NEW YORK, NY 10014 TEL: (212) 249-1000 FAX: (212) 249-1001

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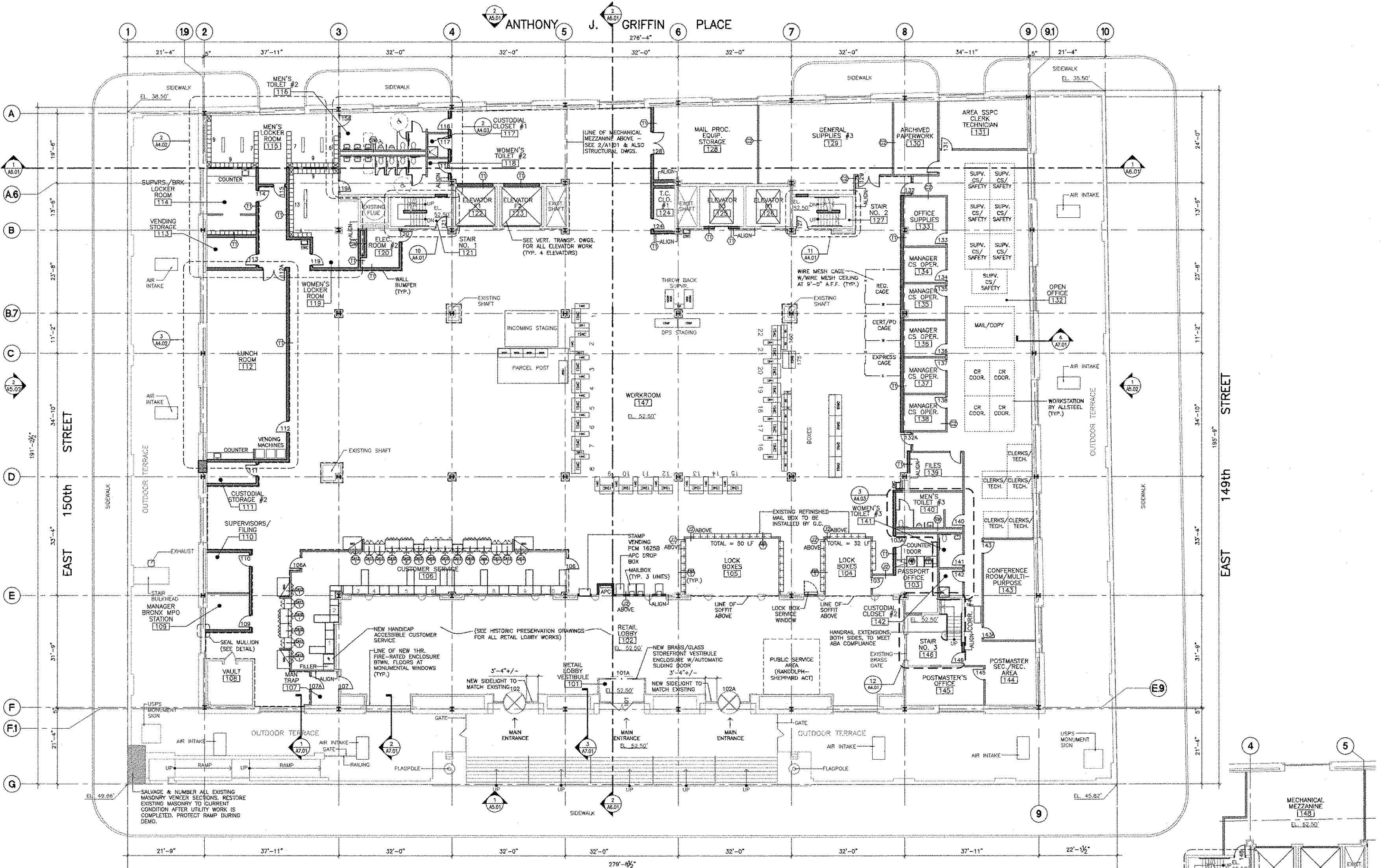
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MECHANICAL: CEC, INC. 200 WEST 10TH STREET, NEW YORK, NY 10014 TEL: (212) 249-1000 FAX: (212) 249-1001



1 PROPOSED FIRST FLOOR PLAN
SCALE: 3/32" = 1'-0"
EL. 52.50'

2 PROPOSED FIRST FLOOR MECHANICAL MEZZANINE PLAN
SCALE: 3/32" = 1'-0"
EL. 62.50'

Time: 6:32 P.M. Date: 12/14/2005 mdures0 Drawing File: C:\16297621-1025-BROXK (P.D)\ARCH\A1.01 FRST FL.dwg

A1.01 PROPOSED FIRST FLOOR PLAN
Scale: 3/32" = 1'-0" Date: 12-05-05
URS Project: SEBRAL (DK DESIGN REVIEW)
URS File Number: 063266

UNITED STATES POSTAL SERVICE
BRONX MAIN POST OFFICE
550 GRAND CONCOURSE
BRONX, NY 10461-5272

URS GROUP, INC.

**Exhibit C:
The Murals (photographs)**



Small text or labels, possibly a museum label or archival information, located on the right edge of the painting.





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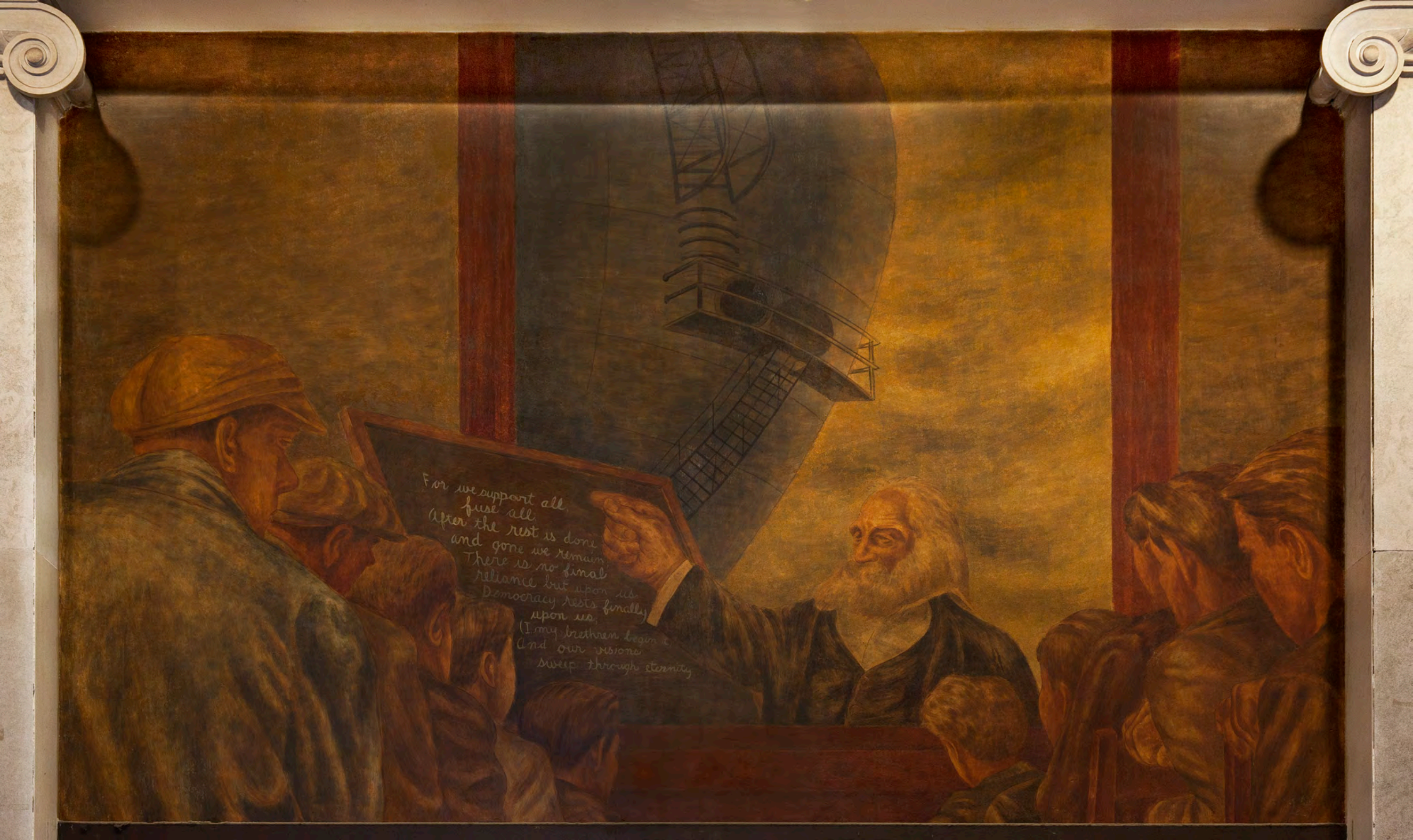




LEANDER







For we support all
fuse all
After the rest is done
and gone we remain
There is no final
reliance but upon us
Democracy rests finally
upon us.
(I, my brethren began
And our visions
sweep through eternity









Exhibit D:
The Mural Loan Agreement

**AGREEMENT FOR LOAN OF ARTWORK FROM THE
POSTAL FINE ARTS COLLECTION
BETWEEN THE UNITED STATES POSTAL SERVICE
AND**

THIS AGREEMENT ("Agreement") is entered into this _____ day of _____, 2014 (the "Effective Date") by and between the United States Postal Service ("USPS") and _____ ("Borrower").

RECITALS

WHEREAS: In May 1938, the U.S. Treasury Department's Section of Fine Arts and Sculpture commissioned Ben Shahn and Bernarda Bryson Shahn to paint 13 large egg tempura murals entitled *Resources of America* (Mural), at the Bronx General Post Office, located at 558 Grand Concourse, Bronx, New York (the "Building") and is part of the Postal Fine Arts Collection owned by the USPS.

WHEREAS: The Borrower purchased the Bronx General Post Office from the USPS on _____, 2014, and the Mural will remain at the Building for display.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained in this Agreement, the parties agree as follows:

1. USPS agrees to loan the Mural to the Borrower, and the Borrower agrees to borrow the Mural from the USPS, for the purpose of exhibiting the Mural for a term of 25 years from the date hereof, with subsequent five year extensions of that term that may be exercised in writing by either party and accepted in writing by the non-exercising party not less than ninety 90 days prior to the expiration of the term then in effect. The Mural will at all times remain the property of the USPS, and this Agreement will be subject to the terms and conditions set forth below. Borrower agrees to provide the USPS and its duly authorized representatives with unlimited access during normal business hours for the purposes of inspection; appraisal; high-resolution, flash or professional grade reproduction; inventory, removal, as hereinafter provided, and other purposes consistent with the foregoing.
2. Borrower will furnish an engraved metal plaque, stating that the Mural is on loan from the USPS and providing the title of the Mural, artist's name, and date of commissioning. Borrower agrees to make no reproductions of the Mural without the written consent of the USPS. Borrower may, at his discretion, allow the visiting public to take impromptu, low resolution photographs of the Mural for personal usage, but shall not allow high-resolution, flash or professional grade photography. Borrower agrees to post a sign near the Mural stating that such photography is prohibited.
3. Should Borrower obtain high-resolution, flash or professional grade reproductions of the Mural (following the receipt of written consent from the USPS), all such reproductions become the property of the USPS. Borrower agrees to provide the USPS with the reproductions, whereupon, USPS will establish ownership of the reproductions under the federal Copyright Act.
4. Borrower shall insure the Mural at Borrower's expense, and the Postal Service shall be named as an additional insured and loss payee. The Mural shall be insured initially for **\$XXX,000 – Pending final review** under an "all risk", wall-to-wall policy subject to only the following standard exclusions: wear and tear, gradual deterioration, terrorism, and war. The Borrower shall obtain a written appraisal of the Mural from an accredited art appraiser at least every five (5) years; and in the event such appraiser determines that the value of the Mural exceeds **\$XXX,000 – Pending final review** Borrower shall within 30 days following receipt of such written appraisal, secure additional coverage in an amount not less than the appraised

value and provide evidence of insurance, in the form required herein, at such higher value to the USPS. If Borrower fails to secure and maintain the insurance required by this paragraph 3, Borrower will, nevertheless, be required to respond financially in case of loss or damage as if said insurance were in effect. Any inaction by the Postal Service regarding evidence of coverage shall not be deemed a waiver.

5. Borrower will provide normal maintenance and precautions to protect the Mural from fire, theft, mishandling, extremes of light, temperature, and humidity, dirt, insects, and vermin and other environmental hazards, while it is in Borrower's care and custody. The Mural must be handled only by experienced personnel and be secured from damage and theft by appropriate brackets, railings, display cases, or other responsible means. Borrower shall inspect the Mural annually and document in writing the current condition. Borrower agrees to provide the USPS Federal Preservation Officer (FPO) with a condition report summarizing the current condition, any change in condition as noted in the inspections, as well as any treatment recommendations. The Borrower shall be responsible for restoration of the Mural at its sole cost and expense while the Mural is in the Borrower's care and custody. The Mural will be restored in the manner provided in Section 6 below.
6. If the Mural is damaged or deteriorates while in Borrower's care and custody, Borrower shall notify the Postal Service immediately, and shall have any repair or restoration performed at its expense. All repair and restoration work shall be performed by a Fellow of the American Institute for Conservation of Historic and Artistic Works who has been approved in advance by the USPS FPO, such approval not to be unreasonably withheld. Borrower shall send the notice of proposal to restore to the FPO for review and approval and after completion of any such restoration the Borrower shall forward the completion report to the FPO. Whenever there is a need for maintenance, repair or restoration which is the Borrower's obligation under this Agreement, the Postal Service will require the Borrower to maintain, repair or restore the Mural as provided herein and will provide written notice to Borrower stating a reasonable time period for completion of all necessary maintenance, repair or restoration. If Borrower fails to complete the maintenance, repair or restoration work within the time specified in the notice, the USPS shall have the right to perform the work at Borrower's sole expense and seek reimbursement from Borrower. Borrower will pay USPS the costs of the work performed within thirty days' of receipt of USPS' invoice.
7. The USPS reserves any rights that it may hold to the Mural and images of the Mural (Mural Images) and grants permission to Borrower's to use the Mural Images for non-profit uses only, or more specifically, any use that does not generate income or promote the generation of income. Non-profit uses do not include uses on annual reports, company brochures, company newsletters, company websites, business cards or other such items. On any non-profit use, Borrower must acknowledge the USPS as the owner of all rights to the Mural and Mural Images.
8. Items bearing the Mural Images cannot be resold for any reason without a license agreement between the USPS and Borrower. Borrower must obtain a license agreement from the USPS and pay royalties to the USPS to use a Mural Image on any item for resale. These uses include, but are not limited to, images on or in postcards, posters, fine art prints, books, periodicals, greeting cards, stationary, clothing or merchandising items such as mugs and magnets. The USPS has a standard license agreement for such purposes. Borrower must notify the following USPS representative by U.S. Mail, certified and postage prepaid, to apply for a license:

Manager Channel Marketing & Licensing
475 L'Enfant Plaza, SW
Room 6912
Washington, DD 20260-50134

This notification requirement is in addition to the notifications requirement in paragraph 14.

9. Failure to obtain a license agreement from the USPS prior to any resale of items bearing a Mural Image constitutes a breach of this Agreement. Upon such breach, a reasonable royalty based on Borrower's resale of such unauthorized items bearing a Mural Image shall become immediately due and payable. USPS and its duly authorized representatives shall have the right at all reasonable business hours to examine the books and records of Borrower pertaining to the resale of unauthorized items bearing a Mural Image.
10. The Mural must be exhibited throughout the term of this Agreement, except for periods required for protection or maintenance of the Mural; provided, however, that if the Mural is taken off exhibit for maintenance or restoration, Borrower shall immediately notify the USPS FPO in writing via Express Mail® Service. Borrower agrees to provide public access to the Mural one day per month during every calendar month of the term of this Agreement, such access to be available during the hours of 9 a.m. to 5 p.m. Eastern Standard Time. In the event a security or safety risk exists at the Property, Borrower may temporarily suspend such public access.
11. In the event the Borrower enters into a contract for the sale of the Building, the Borrower shall provide written notice to USPS at least sixty (60) days prior to transfer of title and shall include the name and address and of the buyer. This Agreement shall terminate on the date title transfers to the new owner.
12. This Agreement shall be construed in accordance with federal law; and, if there is no relevant federal law, in accordance with the law of the State of New York.
13. (a) This Agreement shall terminate on the later of (i) 25 years after its Effective Date, or (ii) the end of any five-year extension term exercised in accordance with paragraph 1 unless earlier terminated as provided in this paragraph 11.

(b) Notwithstanding anything to the contrary provided herein, the USPS may immediately terminate this Agreement, in the USPS sole and absolute discretion, if 30 days have passed after the USPS has provided written notice to the Borrower written notice that the Borrower has failed to meet any of its obligations hereunder and has failed to initiate and complete corrective action as required under the terms of the Agreement. In the event of such termination, USPS reserves the right to seek all rights and remedies available in law and equity.

(c) Upon termination, the Borrower will be responsible for packing and transporting the Mural by qualified and insured handlers to USPS. The Borrower shall ship the Mural within 30 days of the effective date of termination. If termination occurs by expiration of the specified term of this Agreement, or any extensions thereof, the costs of such packing and transportation shall be borne equally by the USPS and by the Borrower. If termination occurs due to Borrower's breach of any of its obligations under the Agreement, or upon sale of the Building, the costs of such packing and transportation shall be borne by the Borrower. In all events, the Borrower shall reimburse the USPS for the cost of any repair or restoration work required upon delivery of the Mural to the location determined by the USPS; provided that the Borrower will not be responsible for the cost of repair or restoration work unless the USPS notifies the Borrower of the need for such work within 30 days of delivery.

(d) If this Agreement is terminated or not renewed the New York State Historic Preservation Office (SHPO) must be notified as the murals are a Historic Character Defining Feature of this property and removal of the murals would constitute an adverse effect, requiring a Memorandum of Agreement (MOA) between the SHPO and USPS.

14. All notices must be in writing and are effective only when deposited in the U.S. Mail certified and postage prepaid, or when sent via overnight delivery as follows:

If to USPS: Federal Preservation Officer – USPS
475 L’Enfant Plaza SW, Room 6631
Washington, D.C. 20260-1862

If to the Borrower: _____

- 15 This Agreement shall constitute the final, complete, and exclusive written expression of the intentions of the parties hereto. This Agreement shall supersede all previous communications, representations, agreements, promises, or statements either oral or written by or between either parties. This Agreement may be amended only in writing signed by each party. In the event of any conflict between this Agreement and any forms of Borrower, the terms of this Agreement shall be controlling.

16. Each party declares that it has the authority to enter into this Agreement and that the signatory hereto has been given the requisite authority to sign. This Agreement may be signed in counterparts, each of which shall be deemed to be an original.

This Agreement takes effect upon the date that representatives of all parties have signed, which date shall be inserted in the introductory paragraph of this Agreement as the “Effective Date.”

(BORROWER)

By: _____ Date _____

FOR THE UNITED STATES POSTAL SERVICE, FACILITIES

By: _____ Date _____
Dallan C. Wordekemper
USPS Federal Preservation Officer